

11/13/01
JC682 U.S. PTO



12-10-01

Express Mail Label
No. EL895072126US

Patent Application

THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. of: Jonathan S. Stinson, et al.

Art Group: 2165

Serial No.: 08/905,821 (Prior Appl.)

Examiner: Michael J. Milano (Prior
Appl.)

Serial No.: (New Appl.)

Atty. Docket: 23,369-134

Filed:

For: Radiopaque Markers for Implantable Prostheses

11046 U.S. PTO
11/13/01
10/008716

REQUEST FOR DIVISIONAL APPLICATION UNDER 37 CFR 1.53(b)

Commissioner for Patents
Washington, D. C. 20231

Sir:

This is a request under 37 CFR 1.53(b) for filing a Divisional Application (Divisional) of copending prior application Serial No. 08/905,821, filed August 1, 1997.

A. Copy of Prior Application as filed

I verify that the attached papers are a true copy of what is shown in my records to be the above-identified application as originally filed, including the following items:

specification - 23 pages;
claims - 5 pages;
abstract - 1 page;
informal drawings - 13 sheets; and
declaration and power of attorney - 2 pages.

B. Amendments

Cancel in this Application original claims 2-34 of the prior application before calculating the filing fee. A preliminary amendment, accompanying this divisional application, confirms this instruction, cancels claim 1, and adds claims 35-63.

C. Title

1. The title of the original application is:

“Radiopaque Markers and Methods of Using the Same”

2. The title of this application is changed in the preliminary amendment to:

Radiopaque Markers for Implantable Prostheses

D. Identification of Inventor

1. The name and correspondence address of each original inventor:

Jonathan S. Stinson
14815 Fourth Avenue North
Plymouth, Minnesota 55447

Claude O. Clerc
8913 Bellvedere Drive
Eden Prairie, Minnesota 55347

2. Name and current correspondence address of each present inventor:

Jonathan S. Stinson
14815 Fourth Avenue North
Plymouth, Minnesota 55447

Claude O. Clerc
8913 Bellvedere Drive
Eden Prairie, Minnesota 55347

E. Inventorship

This application discloses and claims only subject matter disclosed in the prior application. The inventorship remains the same.

F. Waiver of Confidentiality

It is understood that confidentiality under 35 U.S.C. 122 is hereby waived to the extent that permitted access to any one of the applications in the file wrapper of a continuing

application, be it either this application or a prior application in the same file wrapper, results in similar access to all the other applications in the same file wrapper.

G. Declaration

A copy of a Declaration and Power of Attorney is enclosed. See Part A above.

H. Assignment

An assignment of the prior application was recorded in the Patent and Trademark Office August 4, 1997, on Reel 8657 beginning at Frame 0160.

I. Power of Attorney

1. The most recent Power of Attorney in the prior application was filed December 7, 1998, appointing: Luke R. Dohmen, Registration No. 36,783; Peter J. Gafner, Registration No. 36,517; Robert M. Rauker, Registration No. 40,782; Todd P. Messal, Registration No. 42,883; David L. Cavanaugh, Registration No. 36,476; Patricia LaMarche-Davis, Registration No. 37,866; Mark J. Casey, Registration No. 37,796; and William J. Shaw, Registration No. 43,111; and further appointing Frederick W. Niebuhr, Registration No. 27,717; John F. Klos, Registration No. 37,162; and Andrew D. Ryan, Registration No. 39,351 as attorneys/agents to prosecute the application and transact all business in the U.S. Patent and Trademark Office connected therewith.

A copy of this Power of Attorney is enclosed herewith.

2. Direct all future communications regarding this application to:

Frederick W. Niebuhr
Registration No. 27,717
Larkin, Hoffman, Daly & Lindgren, Ltd.
1500 Wells Fargo Plaza
7900 Xerxes Avenue South
Bloomington, Minnesota 55431

Telephone No. (952) 896-1574

J. Small Entity Status

Not applicable.

K. Formal Drawings

Formal drawings (13 sheets) are enclosed, for use in lieu of the informal drawings as originally filed.

L. Fee Calculation

CLAIMS FOR FEE CALCULATION

Basic Fee (Large entity)	\$740.00
Number of independent claims, minus 3 = <u>1</u> times \$84.00	84.00
Total number of claims in excess of 20 = 9 times \$18.00	<u>162.00</u>
Total Filing Fee	<u>\$986.00</u>

M. Fee Payment

A check in the amount of \$986.00 is enclosed to cover the filing fee.

N. Authorization Regarding Fees

The Commissioner is hereby authorized to charge any additional fees listed in 37 CFR 1.16 and 1.17 which may be required by this Rule 53 filing, or credit any overpayment, to Deposit Account No. 12-0449.

O. Petition for Suspension of Prosecution for the Time Necessary to File an Amendment

Not applicable.

P. Priority - 35 U.S.C. 119

Not applicable.

Q. Reference to Prior Application(s) - 35 U.S.C. 120

Amend the specification by inserting before the first line, the sentence: -- This is a divisional of copending prior application Serial No. 08/905,821, filed August 1, 1997. --

See Item S below as to copendency.

R. Petition for Extension of Time in Prior Application

Not applicable.

S. Copendency of Applications

The prior application has been allowed and the issue fee has been paid.

The prior application is expected to issue in due course. Please assign to this divisional application a filing date to insure its copendency with the prior application.

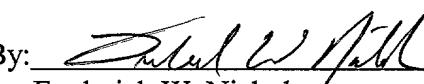
T. Information Disclosure Statement

No Information Disclosure Statement is being filed at this time.

Respectfully submitted,

Boston Scientific Scimed, Inc.

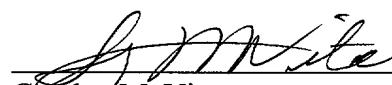
Dated: November 13, 2001

By: 
Frederick W. Niebuhr
Reg. No. 27,717
LARKIN, HOFFMAN, DALY & LINDGREN, LTD.
1500 Wells Fargo Plaza
7900 Xerxes Avenue South
Bloomington, Minnesota 55431
Direct Telephone: (952) 896-1574

CERTIFICATE OF EXPRESS MAILING

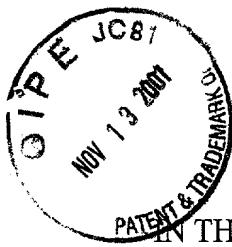
Pursuant to 37 CFR 1.10, I hereby certify that this Request for Divisional Application based on U.S. Application Serial No. 08/905,821 and the aforementioned accompanying papers, and a check in the amount of \$986.00, are being deposited with the U.S. Postal Service by Express Mail, Post Office to Addressee service, addressed to: Commissioner for Patents, Washington, D.C. 20231, on the date of deposit and under the mailing label number indicated below.

Date of Deposit: November 13, 2001


Geralyn M. Vita

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Patent Application

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For: Radiopaque Markers for Implantable Prostheses

TRANSMITTAL

Commissioner for Patents
Washington, D. C. 20231

Sir:

Enclosed for filing please find the following:

1. Request for Divisional Application consisting of 5 pages;
2. Copies of the following items from the Original Application:
 - a) Application text;
 - b) Declaration, Power of Attorney and Petition;
 - c) Informal Drawings (13 sheets);
3. Formal Drawings (13 sheets);
4. Preliminary Amendment, consisting of 9 pages;
5. Check in the amount of \$986.00; and
6. Return Receipt Post Card.

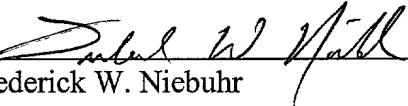
The Commissioner is authorized to charge any further fees necessitated by this correspondence, or refund any overpayment, to Deposit Account 12-0449.

Please direct any questions or comments to Frederick W. Niebuhr at the address and telephone number indicated below.

Respectfully submitted,

Boston Scientific Scimed, Inc.

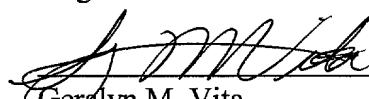
Dated: November 13, 2001

By: 
Frederick W. Niebuhr
Reg. No. 27,717
LARKIN, HOFFMAN, DALY & LINDGREN, LTD.
1500 Wells Fargo Plaza
7900 Xerxes Avenue South
Bloomington, Minnesota 55431
Direct Telephone: (952) 896-1574

CERTIFICATE OF EXPRESS MAILING

Pursuant to 37 CFR 1.10, I hereby certify that this Transmittal and accompanying Request for Divisional Application, copies of items from original application (application text and informal drawings, declaration, power of attorney, formal drawings); Preliminary Amendment, and check in the amount of \$986.00 are being deposited with the U.S. Postal Service by Express Mail, Post Office to Addressee service, addressed to: Commissioner for Patents, Washington, D.C. 20231, on the date of deposit and under the mailing label number indicated below.

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